

AMENDMENTS TO THE DRAWINGS:

Applicant submits herewith thirty-one (31) pages of replacement drawing sheets, specifically FIGURES 1-31c. The replacement drawing sheets are being submitted to replace the formal drawings previously submitted in connection with the subject application. In addition, new FIG. 2e has been added. The drawing sheets are each labeled "Replacement Sheet." No new subject matter has been added.

REMARKS

The Examiner's communication dated February 2, 2009 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Claim 1 has been cancelled. In addition, detailed arguments in support of patentability are presented. Reexamination and/or reconsideration of the application as amended are respectfully requested.

Summary of the Office Action

The drawings were objected to.

Claims 2-7, 9-11, 13, 19-22 and 24-29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Greenwood (U.S. Patent No. 3,808,757).

Claims 8, 12, 14-16 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood, as applied above.

Claims 17 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood as applied above, and further in view of Richardson (U.S. Patent No. 3,788,016).

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Greenwood as applied above, and further in view of Shomaker (U.S. Patent No. 6,701,563).

Drawings

The drawings have been amended to overcome the Examiner's objection thereto. In particular, replacement formal drawings are submitted herewith. In addition, a new Fig. 2e has been added. In particular, some detail shown in the informal drawings was lost and/or unclear due to poor reproduction when the formal drawings were submitted. The present formal drawings are submitted to correct such omissions and/or lack of clarity. Also, new Fig. 2e has been added to overcome the Examiner's objection to the drawings. Fig. 2e is enlarged view of Fig. 2b, particularly the area where prefabricated floor bearer 34 engages floor pillar 14/15. No new matter is added with these drawings.

Interview Summary

A telephone interview was held with Examiner Gary Hartmann on or about March 27, 2009, in connection with the subject patent application. The undersigned attorney, Erik J. Overberger, and the Australian associate representing the Applicant, Dale Watson, Esq., participated on behalf of the Applicant. During the interview, no exhibits were shown, nor were any demonstrations conducted. The claims discussed were the elected independent claims, i.e., claims 2, 19, 28 and 24. In particular, these claims were discussed in view of the Examiner's primary applied reference, i.e., Greenwood (U.S. Patent No. 3,808,757).

The arguments presented to the Examiner during the interview parallel those provided below in the following section. To briefly summarize, it was argued on behalf of Applicant that Greenwood fails to disclose a prefabricated movable member having an extension arranged to directly support a deck, as required by the independent claims. Particularly, it was argued that the strut 56 of Greenwood fails to support a deck (e.g., paneling 40). It was also argued that upper part 44a of Greenwood is not movable relative to lower part 44b; instead, it was argued that lower part 44b is necessarily moved relative to upper part 44a when adjusting the assembly of Greenwood because upper part 44a is fixedly connected to a remainder of the assembly and thus could not simply be moved relative to the lower part 44b.

The Examiner agreed that his reference may have been applied too broadly relative to the pending claims. It was suggested that Applicant submit the arguments presented during the interview in a response to the final Office Action.

Claims Distinguish Patentably Over the Reference(s) of Record

Independent **claims 2, 19, 20 and 24** call for a prefabricated movable member and a corresponding elongate member, wherein an engagement between the prefabricated movable member and the elongate member retains the prefabricated movable member to the elongate member while allowing longitudinal movement of the prefabricated movable member relative to the elongate member. In addition, the

prefabricated movable member is recited as having an extension arranged to directly support a deck laterally of the elongate member.

According to the independent claims, the recited extension of the prefabricated movable member must support a deck. In addition, according to the independent claims, the "prefabricated movable member" is movable. Its movement allows it to move relative to the elongate member for a location at predetermined longitudinal positions relative to the elongate member. One embodiment of the specification of the subject application describes, for example, prefabricated floor bearers 34 which correspond to the prefabricated movable member. The prefabricated floor bearers 34 have sleeves 56 and 58 and are adjusted by slidable movement of those sleeves along corresponding floor pillars 14 and/or 15.

Greenwood

Greenwood discloses a deck assembly. The deck assembly comprises sockets 42 that receive upper ends of upper leg sections 44a and attach to a deck border frame 22 so that the border frame sits on and is supported by legs 44 via the sockets 42. The deck assembly further comprises paneling 40 which rests on the border frame 22.

According to column 2, lines 46 to 48, lower leg sections 44b are telescopically received within and move relative to the corresponding upper leg sections 44a. This movement enables the lower leg sections 44b to be placed at different positions relative to the upper leg sections 44a (see column 2, lines 48 and 49).

The Greenwood specification describes an object of the porch installation invention at column 1, lines 36 to 38 relating to the adjustment of lower leg sections 44b. This object is that the installation is readily modified to adapt to different types of ground elevations and slopes. A corresponding benefit of the adjustability is described at column 4, lines 35 to 37. That benefit is that differences in elevation of the ground are taken care of through the adjustment in length of the various leg structures.

The frame 22 includes diagonal pieces 34a and 34b, and 36a and 36b which, according to the specification, introduce rigidity. Outer ends of the diagonal pieces are attached to corners of the border frame 22 via tie plates 32. A center tie plate 38 connects the struts 56 and diagonal pieces.

The specification of Greenwood describes the deck assembly as being part of a porch installation (e.g. Column 1 lines 1 to 6). According to column 4 lines 17 to 19, it is obvious how the porch assembly is dismantled. Disassembly is specified and according to lines 19 to 29 of column 4 includes:

1. removing legs from the sockets
2. removing the step assembly
3. with the remainder of the assembly presumably positioned on the ground, the paneling which is described as being at the base of the deck assembly is removed by lifting it up
4. Railing are then removed
5. Finally, various elements of the deck frame and bracing structure are separated

Assembly is not described but presumably generally comprises the reverse. This would mean to assemble a porch installation the deck frame and bracing structure are first assembled. At some stage during assembly, legs comprising upper and lower sections are inserted into sockets that form part of the assembled deck frame and bracing structure. With the legs attached to the deck frame the struts that were earlier attached to the frame would then be attached to the upper leg sections.

Rejection Relating to Greenwood

According to the examiner's comparison of Greenwood with the independent claims, the upper leg sections 44a correspond to the prefabricated moveable member while the lower leg sections 44b correspond to the elongate member. The Final Office Action describes the extension of the independent claims as being strut 56 and center tie plate 38.

Patentability of the Claims

- 1) Greenwood does not disclose or suggest that connected struts 56 and center tie plate 38 support a deck.
- 2) Greenwood does not disclose or suggest the upper leg section 44a being prefabricated moveable member movable relative to lower leg section 44b.

Support a Deck

As explained above, the border frame 22 sits on and is supported by legs 44 via the sockets 42. The paneling 40 rests on the border frame 22 and is therefore also supported by the legs 44. The diagonal pieces 34a and 34b, and 36a and 36b introduce rigidity. This is consistent with an object of the invention which is to provide an installation which is entirely sturdy (Column 1, lines 42 and 43).

There is no disclosure in the Greenwood specification of the function of struts 56. However, a strut is defined as a bar, rod etc designed to resist pressure or thrust in a framework. The definition provides as an example of a strut a diagonal member acting as a brace.

In light of the description above of how the porch assembly is dismantled, the diagonal pieces 34a and 34b, and 36a and 36b and struts 56 constitute the bracing structure. Considering also that an object of the invention is to provide an installation which is entirely sturdy, the struts 56 clearly function to brace the deck assembly.

The paneling 40 may comprise one or more panel pieces disposed in a plane (Column 2, lines 18 and 19). The paneling 40, and not separate panels that may form it, that rests on the border frame 22 corresponds to the deck of the independent claims. For paneling 40 comprising multiple panel pieces the struts 56 and center tie plate 38 do not, as required by the independent claims, support a deck. Greenwood therefore includes an embodiment that clearly does not disclose connected struts 56 and center tie plate 38 supporting a deck. To conclude that the struts 56 and center tie plate 38 support paneling 40 is therefore not only, for reasons described above, contrary to the clear teaching of the specification of Greenwood, but also contrary to this embodiment.

Considering the figures in isolation to the description of the specification also does not disclose connected struts 56 and center tie plate 38 support paneling 40. For example, any support that may be provided by the bracing structure could be provided by the diagonal pieces 34a and 34b, and 36a and 36b or the struts 56.

For the reasons explained above there is no clear disclosure by Greenwood that connected struts 56 and center tie plate 38 support the paneling 40. At best any disclosure relating to this alleged support is ambiguous and therefore not supportive of a rejection under 35 U.S.C. § 102. Furthermore, in light of the description of the

specification, any disclosure of support that may be provided by the figures is accidental.

Prefabricated Moveable Member

For reasons explained below, the upper leg sections 44a are not moveable. As described above, lower leg sections 44b are telescopically received within and move relative to the corresponding upper leg sections 44a. There is no teaching or suggestion in Greenwood that components other than the lower leg sections 44b are moveable. It is, according to column 2, lines 48 to 51, leg sections 44b that are placed at different adjusted positions relative to the upper leg sections 44a.

As explained above, the legs 44 are inserted into the socket 42 after the deck border frame 22, center tie plate 38 and diagonal pieces 34a and 34b, and 36a and 36b are assembled. Struts 56 may also be secured to the center tie plate 38 prior to insertion of the legs 44, although this not clear from the description. Adjustment of the leg sections 44b therefore requires separate movement of each leg section 44b relative to the remainder of the deck assembly.

Although the Greenwood specification describes the leg adjustment mechanism, there is no disclosure of how this is achieved. Presumably the deck assembly, once assembled as described above, is propped at a desired elevation. The lower leg sections 44b would then be moved between the adjusted positions by telescopically sliding them within the upper leg sections 44a. The only movement of the upper leg sections 44a that this involves is when the deck assembly is moved to the position at which it is propped. However, as explained above, the lower leg sections 44b are at this stage connected to the upper leg sections 44a and therefore move with them. This movement of the upper leg sections 44a therefore does not comprise, as required by the independent claims, relative movement of the upper and lower leg sections 44a and 44b respectively. The only relative movement of the upper and lower leg sections 44a and 44b comprises movement of the lower leg sections 44b. Any other explanation of the leg adjustment would be adding information to the disclosure of Greenwood which is clearly not allowable.

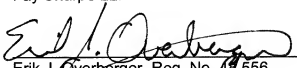
Accordingly, for at least the foregoing reasons, it is respectfully submitted that all remaining pending claims (i.e., claims 2-29) are in condition for allowance.

CONCLUSION

All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

Respectfully submitted,

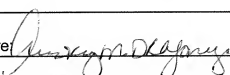
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Date

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